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Paper No. 23

BERNARD H BROWNE JR
240 SAND KEY ESTATES DRIVE # 68
CLEARWATER FL 33767-2932

COPY MAILED

JUN 26 2003

OFFICE OF PETITIONS

In're Application of :
Bernard H. Browne :
Application No. 09/655,792 :
Filed: September 6, 2000 :
Title: INSTANT MUSICIAN, RECORDING :
ARTIST AND COMPOSER :
DECISION ON PETITION

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed June 12, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 4, 2001. Petitioner filed an amendment on January 15, 2002, made timely by including a Certificate of Mailing dated December 24, 2001. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on February 13, 2002, informing petitioner that the amendment would not be entered because it failed to comply with 37 CFR 1.121. No further reply with an appropriate extension of time was received. Accordingly, the above-identified application became abandoned on January 5, 2002. A Notice of Abandonment was mailed on May 23, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(a) and 37 CFR 1.137(b) on August 12, 2002. However, these petitions were dismissed in a decision mailed on October 3, 2002. Petitioner filed a renewed petition under 37 CFR 1.137(a) on November 19, 2002. However, this renewed petition was dismissed in a decision mailed on May 8, 2003.

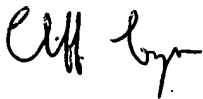
With the instant petition, petitioner filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of a previously filed amendment

(May 3, 2002). The petition fee was previously filed with the 37 CFR 1.137(b) petition on August 12, 2002. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

As the petition fee was previously submitted with the August 12, 2002 petition, the \$650 fee submitted with the instant petition will be refunded to petitioner under separate cover.

The application file is being forwarded to Technology Center 2800 for consideration of the RCE, filed June 12, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: <u>6/25/03</u>		2 Serial/Patent # <u>09/655,792</u>		
3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
<input type="checkbox"/> Filing			\$	
<input type="checkbox"/> Amendment			\$	
<input type="checkbox"/> Extension of Time			\$	
<input type="checkbox"/> Notice of Appeal/Appeal			\$	
<input checked="" type="checkbox"/> Petition	21	6/12/03	\$ 650.00	
<input type="checkbox"/> Issue			\$	
<input type="checkbox"/> Cert of Correction/Terminal Disc.			\$	
<input type="checkbox"/> Maintenance			\$	
<input type="checkbox"/> Assignment			\$	
<input type="checkbox"/> Other			\$	
			7 TOTAL AMOUNT OF REFUND	
			\$ 650.00	
8 TO BE REFUNDED BY:				
<input checked="" type="checkbox"/> Treasury Check				
9 <input type="checkbox"/> Credit Deposit A/C #: 				
10 REASON:				
<input type="checkbox"/> Overpayment				
<input type="checkbox"/> Duplicate Payment				
<input checked="" type="checkbox"/> No Fee Due (Explanation):				
No fee for a renewed petition				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Cliff Congo</u>			TITLE: <u>Petitions Attorney</u>	
SIGNATURE: <u>Cliff Congo</u>			PHONE: <u>305-0272</u>	
OFFICE: <u>Petitions</u>				
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****				
APPROVED: <u>[Signature]</u>			DATE: <u>6/26/03</u>	

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: